North Central Regional Transit District (NCRTD)

Resolution 2013-05

ADOPTION OF A RESOLUTION AMENDING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT PERSONNEL RULES AND REGULATIONS BY ADDING RULE 8 AND 9

WHEREAS, the NCRTD was created through legislative enactment (NMSA 1978, Sections 73-25-1 through 73-25-19); and

WHEREAS, the NCRTD is a subdivision of the State of New Mexico with all the authority and duties of the same; and

WHEREAS, the Board has the authority to make and pass resolutions necessary for the execution of the powers vested in the District; and

WHEREAS, personnel rules and regulations may be established to serve as guidelines to be followed in the administration of the District's personnel system to ensure uniform understanding and application of human resource polices; and

WHEREAS, the NCRTD Board adopted Resolution 2012-16 creating the existing Personnel Rules and Regulations on August 3, 2012 ; and

WHEREAS, the NCRTD Board desires to amend the North Central Regional Transit District Personnel Rules and Regulations adding Rule 8- Workers Compensation Benefits and Rule 9- Return to Work Program.

NOW THEREFORE BE IT RESOLVED THAT THE ATTACHED PERSONNEL RULES 8 and 9 ARE APPROVED AND ADOPTED AS ATTACHED HERETO AS EXHIBIT "A" ON THIS 5TH DAY OF APRIL 2013.

Daniel Barrone, Chair

Approved as to form:

Peter Dwyer, Counsel

RULE 8 – WORKER'S COMPENSATION BENEFITS

8.1 Reporting On-The-Job Injuries.

Employees are insured under the provisions of the New Mexico Worker's Compensation Act, NMSA 1978 §§ 52-1-1 et seq., (the "Act")41 to 5245 for job-related injuries or occupational illnesses and both the employer and employees must fulfill their respective legal duties under the Act including reporting on-the –job injuries.

1 A. Employees are required to report all on the job accidents, regardless of how minor. The supervisor shall ensure that the employee immediately receives all required medical treatment.

2 .B. An NCRTD Aaccident form is available from the Human Resources Office (to and shall be completed by the employee.) and —Employer's First Report of Injury or Illness packet shall be (completed by the supervisor), within 24 hours of the incident. In addition, the employee must submit a HIPAA compliance Authorization for Disclosure of Protected Health Information forem within twenty four (24) hours of the incident, whenever possible.

8.2 Medical Procedures.

1 .A. Emergencies. In the event of traumatic on the job injury/illness situations or when a medical emergency exists, the employee may go to the nearest emergency room or urgent care center. All follow up medical treatment must be coordinated by a physician designated by the District. If the District has not designated a physician the employee willmay see their personal physician.

2 .B. Non- emergencies. An employee with a non-emergency, work related injury/illness shall see a physician designated by the District or their personal physician. That physician will provide medical treatment and/or initiate all referrals for advanced or specialized care, depending upon the nature of the medical problem.

3. C. Post-Accident Alcohol and Controlled Substance Testing (CDL and non CDL). These incidents are not covered under the Worker's Compensation policy and instead shall be covered by the District's See District Drug and Alcohol policy.

D. Compensation. The decision to approve or deny a claim for benefits is made by the District's insurer of record, not by the District itself. If an employee's claim is approved for benefits, any and all payments relating to the injury/illness will be made directly by the District's insurer.

E. Waiting Period. There is a seven (7) day waiting period before an employee becomes eligible to receive payment for lost wages. Employees will shall use sick leave, vacation leave or accumulated compensatory time for any time missed from work due to the work related injury/illness so that pay will continue from the District. If available leave has been exhausted, the employere will be unpaid grant Leave without Pay (LWOP) for missed work time and all applicable provisions of the personnel rules will apply including those related to the payment of insurance premiums. for missed work time.

4. F. FMLA leave. Any applicable employee's FMLA entitlement leave for serious health conditions as defined under FMLA, will run concurrently with employee's a worker's compensation absence., when the injury is one that meets the criteria of a serious health condition. Because worker's compensation absences are not unpaid leave, the provisions

for substitution of paid leave is not applicable. An employee whose Worker's Compensation leave exceeds the FMLA leave period and who has exhausted all paid leave will be placed on ~~Leave without Pay (~~LWOP~~)~~ pursuant to Section 4.13 of the personnel rules and all applicable provisions will apply including those related to the payment of insurance premiums.

8.3 Return to Work Procedures

Prior to returning to work, an employee injured in the course of employment shall obtain a release from the treating physician and shall take that release, including any restrictions to the Human Resources Office.

If the employee is released without restrictions, he or she shall return immediately to ~~their~~his or her assigned work. ~~location.~~

~~However, if the health care provider treating the employee for the worker's compensation injury certifies the employee is able to return to light duty work, but is unable to return to the same or equivalent job, the employee may decline the District's offer of a light duty job. As a result, the employee may lose worker's compensation benefits, but is entitled to remain on FMLA leave until the 12 week period is exhausted. The provisions for substitution of paid leave will become applicable and applied as of the date worker's compensation benefits cease.~~

RULE 9 – RETURN TO WORK (FROM ILLNESS/INJURY) PROGRAM

Generally the District's Return to Work (RTW) Program attempts to provide~~s~~ temporary modified work duty to employees who have suffered an injury or illness and as a result are not immediately able to return to their regularly assigned duties without modification to their work duties. ~~full duty~~. The goal of the RTW Program is for the District to retain and accommodate ~~work with~~ injured/ill employees and to work with the employee's physician to transition the employee back to full, unrestricted and unmodified work dutie~~s~~y. The availability of modified work duties under ~~any~~ the RTW ~~functions~~ Program is within the sole discretion of the District unless otherwise required by law. Notwithstanding any rule or provision herein to the contrary, the District shall at all times comply with requirements of the Americans with Disabilities Act and shall provide reasonable accommodations and such other measures as are required by law in the case of disabled persons.

9.1 Employees who experience an on the job injury or illness which results in their temporary inability to return to the full range of duties of their regular position classification, ~~will~~ shall accept transitional work assignments if offered by the District.

9.2 Employees who experience an off the job injury or illness which results in their inability to return to the full range of duties of their regular position classification may be eligible for transitional work assignments if offered by the District and if consistent with the provisions of New Mexico and District ~~State Statutes and implementing rules dealing with~~ workers' compensation laws, rules and regulations.

9.3 Transitional work assignments will consist of work which is within the restrictions outlined by the employee's health care provider. The employee's health care provider must provide a specific listing of limitations and the ~~employee's~~ anticipated recuperation time ~~which will result in the~~ prior to the employee's returning to work without limitations. Such assignments may include, but

are not necessarily limited to:

A. Part-time or fulltime, with a temporary waiver of certain regular duties (reasonable accommodation), in an employee's regular position classification; or
B. Part-time or full time in another capacity.

9.4 The District may require an employee to submit to an examination ~~with~~by a physician chosen by the District at the District expense, if the ~~amount~~ duration of the temporary assignment appears to be excessive, if the restrictions/limitations cannot be adequately interpreted or clarified with the employee's physician, or if
the District has reason to believe the employee's release for duty is inconsistent with job requirements.

9.5 Employees assigned to transitional work assignments will receive their regular hourly rate of pay for their regular job classification for the number of hours worked in the transitional work assignment.

9.6 Assignment to transitional work depends upon the availability of such work and of work suitable to the employee's medical restrictions. A transitional work assignment may be terminated at any time by the District.

9.7 Priority will be given to workers with job related injuries/illnesses and ~~For~~ employees with non-job related injuries/illnesses who seek similar accommodations ~~, assignment to transitional work~~ may be ~~ended~~ subject to personnel actions, modified work assignments or work schedules, or required use of leave in order to provide transitional work assignment to an employee injured on the job.

9.8 In no event will a modified duty assignment last for more than ninety (90) ~~calendar~~ days in a 12-month rolling calendar year. This applies to both work-related and non-work related conditions. The 90 days may be continuous or intermittent. If the employee is not able to return to full duty ~~within~~ following 90 ~~calendar~~ days of continuos or intermittent modified duy assignment, an evaluation will be conducted by the Human Resources Office to identify available options ~~available to the employee~~, which may include consideration of medical retirement or sepaeration. The District reserves the right, for good ~~-~~ cause~~reason~~, to discontinue a modified-duty assignment at any time. Good ~~reason~~ cause shall include, but not be limited to, unavailability of temporary work ~~no longer being available~~, operational requirements of the District ~~prohibiting the continuance of~~ which make temporary assignment impracticable, or the employee's inability to satisfactorily perform the duties of the modified duty assignment.

9.~~8~~9 Employees refusing to work transitional work assignments ~~will~~ may not be eligible for workers compensation benefits or paid leave benefits. Transitional work assignment for employees with workers' compensation claims or receiving workers' compensation benefits will be made consistent~~ly~~ with the provisions of ~~New Mexico State Law~~ New Mexico Worker's Compensation Act, NMSA 1978 §§ 52-1-1 et seq., (the "Act") along with State and District rules. ~~and its implementing rules~~. ~~To the extent consistent with New Mexico State Law and implementing rules, employees refusing to work transitional work assignments will~~may ~~not be eligible for workers' compensation benefits or paid leave benefits.~~ Employees refusing transitional work assignments maybe subject to corrective action. If the employee's health care provider will not authorize transitional work, the District ~~will~~ may take appropriate action as allowed by law.

9.~~9~~10 Employees unable to return to work due to injury/illness maybe separated from District employment as provided for under Section 4.24 of the Personnel Rules.

RULE 8 – WORKER'S COMPENSATION BENEFITS

8.1 Reporting On-The-Job Injuries.

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F. FMLA leave. Any applicable FMLA leave for serious health conditions as defined under FMLA, will run concurrently with employee's worker's compensation absence. , Because worker's compensation absences are not unpaid leave, the provisions for substitution of paid leave is not applicable. An employee whose Worker's Compensation leave exceeds the FMLA leave period and who has exhausted all paid leave will be placed on LWOP

pursuant to Section 4.13 of the personnel rules and all applicable provisions will apply including those related to the payment of insurance premiums.

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9.2 Employees who experience an off the job injury or illness which results in their inability to return to the full range of duties of their regular position classification may be eligible for transitional work assignments if offered by the District and if consistent with the provisions of New Mexico and District workers' compensation laws, rules and regulations.

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B. Part-time or full time in another capacity.

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